

Assembly Bill No. 2406

CHAPTER 209

An act to add Section 33334.25 to the Health and Safety Code, relating to redevelopment.

[Approved by Governor August 27, 2010. Filed with
Secretary of State August 27, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2406, Blakeslee. Redevelopment: pooled housing funds.

The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined, in blighted areas in those communities known as project areas. Section 16 of Article XVI of the California Constitution authorizes a redevelopment agency to receive funding through tax increments attributable to increases in assessed property tax valuation of property in a project area due to redevelopment. Not less than 20% of tax increments generated from a project area are required to be used by a redevelopment agency to increase and improve the community's supply of low- and moderate-income housing.

This bill would authorize contiguous agencies located within adjoining cities in a metropolitan statistical area to create and participate in a joint powers authority in order to pool their housing funds to pay for the direct costs of constructing, substantially rehabilitating, and preserving the affordability of housing units affordable to extremely low income persons or households, as defined.

The bill would require that specified terms and conditions be set forth in a mutually binding contract between the joint powers authority and each participating agency and a receiving entity for the use and transfer of pooled housing funds. The bill would also require that pooled housing funds be spent within a project area of a participating agency and would also prohibit the creation of a new joint project funded pursuant to its provisions on or after January 1, 2020.

The people of the State of California do enact as follows:

SECTION 1. Section 33334.25 is added to the Health and Safety Code, to read:

33334.25. (a) The Legislature finds and declares all of the following:

(1) The transfer of funds to a joint powers authority and the use of pooled funds within the housing market area of the participating agencies for the purpose of providing affordable housing is of benefit to the project area producing the tax increment.

(2) The cost and availability of land, geophysical and environmental limitations, community patterns, and the lack of financing make the availability of affordable housing more difficult in some communities.

(3) The cooperation of local agencies and the use of pooled funds will result in more resources than would otherwise be available for affordable housing.

(b) As used in this section, the following terms shall apply:

(1) “Housing funds” means funds in or from the low- and moderate-income housing fund established by an agency pursuant to Section 33334.3.

(2) “Joint powers authority” means a joint powers authority created pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code for the purposes of receiving and using housing funds pursuant to this section.

(3) “Receiving entity” means any person, partnership, joint venture, corporation, governmental body, or other organization receiving housing funds from a joint powers authority for the purpose of providing housing pursuant to this section.

(c) Notwithstanding any other provision of law, contiguous agencies located within adjoining cities within a single metropolitan statistical area (MSA) may, by agreement, create and participate in a joint powers authority for the purpose of pooling their housing funds for the direct costs of constructing, substantially rehabilitating, and preserving the affordability of housing units that are affordable to extremely low income households, as defined in Section 50106. Agencies may participate in the authority upon a finding based on substantial evidence, after a public hearing, that the aggregation will not cause or exacerbate racial, ethnic, or economic segregation. Agencies may transfer a portion of their housing funds to a joint powers authority for use by the joint powers authority pursuant to this section. The joint powers authority may determine the kinds of housing projects or activities to be assisted, consistent with this section. The joint powers authority may loan, grant, or advance transferred housing funds from participating agencies to a receiving entity for any eligible housing development within the participating agency’s jurisdiction, subject to the requirements of this section. In addition, the agreement may authorize the joint powers authority to issue bonds and to use the pooled funds to leverage other funds to assist eligible developments, including loans from private institutions and assistance provided by other governmental agencies.

(d) A mutually binding agreement between the joint powers authority and each participating agency shall contain the following terms and conditions:

(1) The community of each participating agency shall have adopted up-to-date housing elements pursuant to Article 10.6 (commencing with Section 65580) of Division 1 of Title 7 of the Government Code, and the housing elements have been determined to be in compliance with the law by the Department of Housing and Community Development.

(2) The community of each participating agency shall have met, in its current or previous housing element cycle, 50 percent or more of its share of the region's affordable housing needs, as defined in Section 65584 of the Government Code, in the very low and lower income categories of income groups defined in Section 50025.5.

(3) Each participating agency shall hold, at least 45 days prior to the transfer of funds to the joint powers authority, a public hearing, after providing notice pursuant to Section 6062 of the Government Code to solicit public comments on the draft agreement.

(4) No housing funds shall be transferred from a project area that has an indebtedness to its low and moderate-income housing fund pursuant to Section 33334.6.

(5) No housing funds shall be transferred from an agency that has not met its need for replacement housing pursuant to Section 33413, unless the agency has encumbered and contractually committed sufficient funds to meet those requirements.

(6) Pooled funds shall be used within the participating agencies' jurisdictions.

(7) The joint powers authority shall comply with this section.

(8) The joint powers authority shall ensure that the funds it receives are used in accordance with this section.

(9) Funds transferred by an agency to a joint powers authority pursuant to this section shall be expended or encumbered by the joint powers authority for the purposes of this section within two years of the transfer. Transferred funds not so expended or encumbered by the joint powers authority within two years after the transfer shall be returned to the original agency and shall be deemed excess surplus funds as provided in, and subject to, the requirements of Sections 33334.10 and 33334.12. Excess surplus funds held by an agency shall not be transferred to a joint powers authority.

(10) The joint powers authority shall prepare and submit an annual report to the department that documents the amount of housing funds received and expended or allocated for specific housing assistance activities consistent with Section 33080.4.

(e) A mutually binding contract between the joint powers authority and a receiving entity shall contain the following terms and conditions:

(1) Pooled housing funds shall be used only to pay for the direct costs of constructing, substantially rehabilitating, or preserving the affordability of housing units that are affordable to extremely low income persons or households.

(2) Pooled housing funds shall not be used to pay for planning and administrative costs, offsite improvements associated with a housing project, or fees or exactions levied solely for development projects constructed, substantially rehabilitated, or preserved with pooled funds. The receiving entity shall be subject to the same replacement requirements provided in Section 33413 and any relocation requirements applicable pursuant to Section 7260 of the Government Code.

(3) The joint powers authority shall make findings, based on substantial evidence on the record, that each proposed use of pooled funds will not exacerbate racial or economic segregation.

(f) Pooled funds expended pursuant to this section shall be spent within the project area of a participating redevelopment agency.

(g) On or after January 1, 2020, no new joint project may be created pursuant to this section.